IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 27TH FEBRUARY 2007 / 8TH PHALGUNA 1928

Crl.MC.No. 521 of 2007()

CC.244/2002 of JUDL.MAGISTRATE OF FIRST CLASS COURT, OTTAPPALAM
CRIME NO. 123/02 OF SHORNUR POLICE STATION

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PETITIONERS/ACCUSED & DEFACTO COMPLAINANT:

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1. M. VIJAYAN, S/O. ARUMUGHAN
   MALACHIYIL HOUSE, KARUVATHOOR
   KAILIAD, OTTAPALAM, PALAKKAD DIST.

2. M. SIVAN, S/O. ARAMUGHAN
   DO. DO.

3. N.P. SMITHA, W/O. SIVAN, DO. DO.

4. M. ARAMUGHAN, S/O. SANKARAN,
   DEO. DO.

5. M. KUNCHI, W/O. ARAMUGHAN, DO. DO.

6. SMITHA, D/O. CHERAPARAMBIL NARAYANAN
   CHERAPARAMBIL HOUSE, KULAPULLY
   OTTAPALAM, PALAKKAD DIST.

BY ADV. SRI.BABU S. NAIR

RESPONDENT/STATE:

THE STATE OF KERALA, REP. BY SUB INSPECTOR
OF POLICE, SHORNUR POLICE STATION - THROUGH
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 521 of 2007

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Dated this the 27th day of February, 2007

O R D E R

The petitioners are accused 1 to 5 and the defacto complainant in a prosecution initiated under Section 498A I.P.C. The 6th petitioner is the defacto complainant. Cognizance has been taken on the basis of a final report submitted by the police. The first petitioner/first accused is the husband of the 6th petitioner. Petitioners/accused 2 and 3 are the brother and sister-in-law of the first petitioner. Petitioners/accused 4 and 5 are the parents of the first petitioner.

2. The petitioners have come to this Court with this joint application with a prayer that C.C.No. 244 of 2002 pending before the J.F.C.M. Ottapalam against the petitioners 1 to 5 may be quashed. The parties have settled their disputes. The 6th petitioner has voluntarily compounded the offence allegedly committed by petitioners 1 to 5. In these circumstances the matrimonial disputes have been settled and divorce has been effected. Continuance of C.C.No.244 of 2002 is against the spirit of settlement, which has been

reached by the petitioners. In these circumstances powers under Section 482 Cr.P.C. may be invoked and proceedings against petitioners 1 to 5 may be quashed, it is prayed.

3. Notice was given to the learned Public Prosecutor. The learned Prosecutor does not oppose the prayer. An affidavit, duly attested by a Notary Public, of the 6th petitioner has been filed. The learned counsel for the petitioners vouches for the signature of the 6th petitioner in the affidavit and in the petition.

4. I am satisfied from the totality of inputs available that the disputes have been settled amicably between petitioners 1 to 5 and the 6th petitioner. The th petitioner has compounded the offence allegedly committed by petitioners 1 to 5.

5. The offence under Section 498A I.P.C. is not compoundable. Eventhough the offence is not compoundable, the dictum in **B.S. Joshi** v. **State of Haryana** (AIR 2003 SC 1386) is pressed into service to justify the prayer for quashing the proceedings. The Supreme Court in that decision has held that stipulations of Section 320 Cr.P.C. do not inhibit or fetter the powers of this Court under Section 482 Cr.P.C.

4. It is trite that powers under Section 482 Cr.P.C. can be invoked in

the interests of justice and at times the interests of justice may transcend the interests of mere law. In such cases powers under Section 482 Cr.P.C. can be invoked notwithstanding the provisions of Section 320 Cr.P.C. This, I am satisfied, is a fit case where such powers can be invoked.

5. This Crl.M.C. is hence allowed. C.C.No. 244 of 2002 pending before the J.F.C.M., Ottapalam, is hereby quashed.

(R. BASANT)
Judge

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